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HOUSE BILL 87

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Larry A. Larrañaga

AN ACT

RELATING TO GAMING; PROHIBITING PERSONS UNDER TWENTY-ONE YEARS OF AGE FROM PARTICIPATION IN THE NEW MEXICO LOTTERY OR IN PARI-MUTUEL WAGERING AT A HORSE RACETRACK.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-24-14 NMSA 1978 (being Laws 1995, Chapter 155, Section 14) is amended to read:

"6-24-14. LOTTERY RETAILERS--CONTRACTS--SALES COMMISSION--BONDS.--

A. Lottery tickets shall be sold only by a lottery retailer who, pursuant to a contract with the authority, has been issued a certificate of authority signed by the chief executive officer. The lottery retailer shall display the certificate conspicuously at each authorized location. No lottery retailer shall sell a lottery ticket except from the

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1 locations listed in [~~his~~] the contract and as evidenced by
2 [~~his~~] the certificate of authority unless the authority
3 authorizes in writing any temporary location not listed in
4 [~~his~~] the contract.

5 B. Before entering into a contract with a lottery
6 retailer applicant, the chief executive officer shall consider:

7 (1) the financial responsibility and security
8 of the applicant and [~~his~~] the applicant's business or
9 activity;

10 (2) the accessibility of [~~his~~] the applicant's
11 place of business or activity to the public; and

12 (3) the sufficiency of existing licenses to
13 serve the public convenience and the volume of the expected
14 sales.

15 C. No person shall be a lottery retailer who:

16 (1) is under [~~eighteen~~] twenty-one years of
17 age, and no employee of a lottery retailer under twenty-one
18 years of age shall sell or distribute lottery tickets;

19 (2) is engaged exclusively in the business of
20 selling lottery tickets;

21 (3) is a lottery vendor or an employee or
22 agent of any lottery vendor doing business in New Mexico;

23 (4) has been found to have violated any
24 provisions of the New Mexico Lottery Act or any rule adopted by
25 the board pursuant to that act; or

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1 (5) fails to certify to the chief executive
2 officer that [~~his~~] the premises are in compliance with the
3 federal Americans with Disabilities Act of 1990.

4 D. All lottery retailer contracts may be renewable
5 annually in the discretion of the authority unless sooner
6 terminated.

7 E. The authority to act as a lottery retailer is
8 not assignable or transferable.

9 F. Lottery retailer applicants shall pay an
10 application fee established by the board to cover the cost of
11 investigating and processing the application.

12 G. The board shall determine the commission to be
13 paid lottery retailers for their sales of lottery tickets.

14 H. Each lottery retailer shall keep a complete and
15 current set of records accounting for all [~~of his~~] sales of
16 lottery tickets and shall provide it for inspection upon
17 request of the board, the chief executive officer, the
18 legislative finance committee or the attorney general.

19 I. Lottery retailers shall make payments to the
20 lottery only by check, bankdraft, electronic fund transfer or
21 other recorded, noncash financial transfer method as determined
22 by the chief executive officer.

23 J. No lottery retailer shall contract with any
24 person for lottery goods or services except with the approval
25 of the board."

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1 Section 2. Section 6-24-15 NMSA 1978 (being Laws 1995,
2 Chapter 155, Section 15) is amended to read:

3 "6-24-15. LOTTERY TICKETS--SALES.--

4 A. The price of each lottery ticket shall be
5 clearly stated on the ticket. No person shall sell a ticket at
6 a price other than at the price established by the authority
7 unless authorized in writing by the chief executive officer.
8 No person other than a lottery retailer shall sell lottery
9 tickets, but this subsection shall not be construed to prevent
10 a person who may lawfully purchase tickets from making a gift
11 of lottery tickets. Transactions between individuals on a
12 nonprofit basis are permissible. Nothing in the New Mexico
13 Lottery Act shall be construed to prohibit the authority from
14 designating certain of its agents or employees to sell or give
15 lottery tickets directly to the public.

16 B. Lottery tickets may be given by merchants as a
17 means of promoting goods or services to customers or
18 prospective customers.

19 C. Tickets shall not be sold to or purchased by
20 individuals under [~~eighteen~~] twenty-one years of age. Persons
21 under [~~eighteen~~] twenty-one years of age may receive lottery
22 tickets as gifts.

23 D. Tickets may be purchased only with cash or a
24 check and shall not be purchased on credit.

25 E. The names of elected officials shall not appear

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1 on any lottery ticket."

2 Section 3. Section 60-1-10 NMSA 1978 (being Laws 1933,
3 Chapter 55, Section 6, as amended) is amended to read:

4 "60-1-10. PARI-MUTUEL METHOD LEGALIZED--MAXIMUM
5 COMMISSIONS--HORSEMEN'S COMMISSION--GAMBLING STATUTES NOT
6 REPEALED--COMMISSION DISTRIBUTION.--

7 A. Within the enclosure where [~~any~~] horse races are
8 conducted, either as live on-track horse races or as horse
9 races simulcast pursuant to Section 60-1-25 NMSA 1978, and
10 where the licensee has been licensed to use the pari-mutuel
11 method or system of wagering on races, the pari-mutuel system
12 is lawful, but only within the enclosure where races are
13 conducted.

14 B. A person under twenty-one years of age shall not
15 sell, purchase or possess a pari-mutuel ticket or certificate.
16 The sale to patrons present on the grounds of pari-mutuel
17 tickets or certificates on the races or the use of the pari-
18 mutuel system shall not be construed to be betting, gambling or
19 pool selling and is authorized under the conditions provided by
20 law.

21 C. There shall be for each class A licensee a
22 commission of nineteen percent of the gross amount wagered on
23 win, place and show through the pari-mutuel system, of which
24 eighteen and three-fourths percent shall be retained by a class
25 A licensee and one-fourth [~~of one~~] percent shall be allocated

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1 to the general fund. A commission in an amount determined by
2 the licensee of not less than eighteen and six-eighths percent
3 and not greater than twenty-five percent of the gross amount
4 wagered on win, place and show through the pari-mutuel system
5 shall be retained by a class B licensee. Each class B licensee
6 shall advise the state racing commission not less than thirty
7 days in advance of each horse racing meeting of the percentage
8 the licensee shall retain as commission. From that commission,
9 each class A and class B licensee shall allocate five-eighths
10 of one percent to the New Mexico horse breeders' association
11 weekly for distribution pursuant to the provisions of
12 Subsection C of Section 60-1-17 NMSA 1978.

13 D. Except as otherwise provided in this subsection,
14 a commission shall be retained by the licensee at the election
15 of each class A licensee of not less than twenty-one percent
16 and not greater than twenty-five percent of the gross amount
17 wagered on exotic wagering and at the election of each class B
18 licensee, and with the approval of the state racing commission,
19 of not less than twenty-one percent and not greater than thirty
20 percent of the gross amount wagered on exotic wagering. For
21 the purpose of this subsection, "exotic wagering" means all
22 wagering, other than win, place and show, through the pari-
23 mutuel system. Each licensee shall advise the state racing
24 commission not less than thirty days in advance of each horse
25 racing meeting of the amount of the commission of the gross

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1 amount wagered on exotic wagering to be retained by the
2 licensee. From that commission, the licensee shall allocate
3 one and three-eighths percent to the New Mexico horse breeders'
4 association weekly for distribution pursuant to the provisions
5 of Subsection C of Section 60-1-17 NMSA 1978.

6 E. The odd cents of all redistributions to the
7 wagerer over the next lowest multiple of ten from the gross
8 amount wagered through the pari-mutuel system shall be retained
9 by the licensee, with fifty percent of the total being
10 allocated to enhance the race purses of established stake races
11 that include only horses registered as New Mexico bred with the
12 New Mexico horse breeders' association, to be distributed by
13 the New Mexico horse breeders' association pursuant to
14 Paragraph (3) of Subsection C of Section 60-1-17 NMSA 1978
15 subject to the approval of the state racing commission.

16 F. All money resulting from the failure of patrons
17 who purchased winning pari-mutuel tickets during the meeting to
18 redeem their winning tickets before the end of the sixty-day
19 period immediately succeeding the closing day of the meeting
20 and all money resulting from the failure of patrons who
21 purchased pari-mutuel tickets that were entitled to refund but
22 were not refunded during the same sixty-day period shall be
23 apportioned as follows:

24 (1) thirty-three and thirty-three hundredths
25 percent shall be retained by the licensee;

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1 (2) thirty-three and thirty-four hundredths
2 percent shall be distributed to the New Mexico horse breeders'
3 association to enhance each track's established overnight
4 purses for races that include only horses registered as New
5 Mexico bred with the New Mexico horse breeders' association
6 pursuant to Paragraph (3) of Subsection C of Section 60-1-17
7 NMSA 1978, subject to the approval of the state racing
8 commission; and

9 (3) thirty-three and thirty-three hundredths
10 percent shall be allocated to [~~horseman's~~] horsemen's race
11 purses.

12 G. To promote and improve the quality of horse
13 racing and simulcasting and the participation of interested
14 persons in horse racing in New Mexico, one-half [~~of one~~]
15 percent of the gross amount wagered on simulcast horse races at
16 each licensed racetrack in New Mexico that receives simulcast
17 horse races shall be allocated by each licensee for
18 distribution to the New Mexico horsemen's association; provided
19 that at least [~~one-quarter of one~~] one-fourth percent of the
20 gross amount wagered on simulcast races that is so allocated is
21 used solely for medical benefits for the members of the New
22 Mexico horsemen's association, and provided further that the
23 remaining [~~one-quarter of one~~] one-fourth percent of the gross
24 amount wagered on simulcast races that is so allocated shall be
25 used to enhance purses at each such licensed racetrack. The

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1 state racing commission shall by regulation provide for the
2 timing and manner of the distribution required by this
3 subsection and shall audit, or arrange for an independent audit
4 of, the disbursement required by this subsection.

5 H. Fifty percent of the net retainage of each
6 licensee shall be allocated to race purses. For purposes of
7 this section, "net retainage" of the licensee means the
8 commission retained by the licensee on all forms of wagers
9 minus:

10 (1) the taxes delineated in Sections 60-1-8
11 and 60-1-15 NMSA 1978;

12 (2) money allocated to the New Mexico horse
13 breeders' association by this section and Section 60-1-17 NMSA
14 1978;

15 (3) money allocated to the New Mexico
16 horsemen's association by this section;

17 (4) a deduction for expenses incurred to
18 engage in intrastate simulcasting pursuant to Section 60-1-25
19 NMSA 1978, provided that:

20 (a) the deduction for each licensee
21 shall be a portion of five percent of the gross amount wagered
22 at all the sites receiving the same simulcast horse races;

23 (b) the deduction portion for each
24 licensee shall be an amount allocated to the licensee by
25 agreement voluntarily reached among all the licensees sending

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1 or receiving the same simulcast horse races; and

2 (c) the deduction portion for each
3 licensee shall be an amount allocated to the licensee by the
4 state racing commission if all the licensees sending or
5 receiving the same simulcast horse races fail to reach a
6 voluntary agreement under Subparagraph (b) of this paragraph;
7 and

8 (5) a deduction for fees and commissions
9 incurred to receive interstate simulcasts pursuant to Section
10 60-1-25 NMSA 1978.

11 I. Existing statutes of this state against horse
12 racing on Sundays or on bookmaking, pool selling or other
13 methods of wagering on the racing of horses are not repealed
14 but are hereby expressly continued in effect, with the
15 exception that the operation of the pari-mutuel method or
16 system in connection with the racing of horses, when used as
17 provided by law, is lawful.

18 J. In the event any money paid or allocated to the
19 New Mexico horse breeders' association or the New Mexico
20 Appaloosa racing association pursuant to the Horse Racing Act
21 cannot be paid to or allocated or administered by such
22 associations, then the state racing commission, or such other
23 organization as may be designated, retained or absolutely
24 controlled by the state racing commission, shall receive all
25 such money and shall pay, allocate and administer all such

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1 money pursuant to the provisions of Section 60-1-17 NMSA 1978.
2 If the state racing commission or its controlled designee is
3 required to pay, allocate or administer money on behalf of the
4 New Mexico horse breeders' association or the New Mexico
5 Appaloosa racing association pursuant to this subsection, then
6 the maximum percentage of funds set forth in Paragraph (3) of
7 Subsection C of Section 60-1-17 NMSA 1978 shall be paid by the
8 state racing commission to the New Mexico horse breeders'
9 association or the New Mexico Appaloosa racing association as a
10 fee to obtain the certification of the registry of the dam and
11 stud of the New Mexico bred horse.

12 K. In the event any money paid or allocated to the
13 New Mexico horsemen's association pursuant to the Horse Racing
14 Act cannot be paid to or allocated or administered by the
15 association, then the state racing commission, or such other
16 organization as may be designated, retained or absolutely
17 controlled by the state racing commission, shall receive all
18 such money and shall pay, allocate and administer all such
19 money to achieve the purposes of the provisions of this
20 section."

21 Section 4. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2007.